UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/NGO/132
8 March 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Items 9, 11 and 17 (b) of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

CIVIL AND POLITICAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement*/ submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 March 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

Protecting human rights defenders
Implementation of the "Declaration on Human Rights Defenders"

1. The Lawyers Committee for Human Rights welcomes the adoption of the Declaration on Human Rights Defenders, adopted by the General Assembly in resolution 53/144 of 9 December 1998 under the formal name "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms." By recognizing the role that human rights defenders have in the protection and promotion of civil, political, economic, social and cultural rights and by seeking to protect the personal safety and promote the activities of those human rights defenders, the Declaration operates as a vital tool for the realization of the norms embodied in the International Bill of Human Rights.

2. Despite the adoption of the Declaration on Human Rights Defenders, many defenders continue to be subjected to actual and threatened physical violence and malicious prosecutions. Further, their activities are suppressed by restrictive legal regimes. The following paragraphs give an example of each of these three types of harassment and highlight the need for immediate and effective implementation of the Declaration.

Physical violence against human rights defenders

3. In Guatemala, human rights defenders calling for an exhaustive investigation and prosecution of those responsible for the 1990 murder of Guatemalan anthropologist Myrna Mack, and the 1998 murder of Bishop Juan Gerardi have been targeted. Both Myrna Mack and Bishop Gerardi are believed to have been murdered by government officials because of their human rights activities. Now the people seeking to try their murderers are being threatened with death. In March 1999, Judge Henry Monroy, who in January had ordered three senior military officials to stand trial for the murder of Myrna Mack and who was the second judge on the Gerardi murder case, received a mock package bomb from an unknown sender, preceded by a warning from an anonymous caller. Judge Monroy fled to Canada because of these threats. The second prosecutor on the Gerardi case, Celvin Galindo, after beginning to explore previously ignored leads pointing to military involvement in the murder, was the object of surveillance and death threats. He resigned and fled the country in October. In April 1999, a stone wrapped in a plastic bag was left outside the doors of a church where Helen Mack, Myrna Mack's sister, was attending her father's funeral mass. Local human rights monitors believe the act was an attempt to intimidate her. This stone was believed to be intentionally reminiscent of the stone used in the murder of Bishop Gerardi. While there appears to have been positive movement in the investigation of the Gerardi case in recent months, the safety of the human rights activists and lawyers involved in the case remains a serious concern.

Malicious prosecution of human rights defenders

4. On December 10, 1999, a Serbian court sentenced Dr. Flora Brovina, pediatrician and founder of the Albanian League of Women in Kosovo, to 12 years in prison on charges of terrorism committed during the NATO air campaign in Kosovo. Brovina was arrested in late April 1999 in Kosovo and accused of aiding the separatist guerrilla movement, the Kosovo Liberation Army. For two months, Dr. Brovina was moved from house to house and her family was denied information on her whereabouts. She was interrogated for approximately 226 hours in the absence of a lawyer and she was denied medical treatment for an angina condition. In June, when the bombing ceased and NATO forces withdrew from Kosovo, she was transferred to a Serbian jail (with approximately 2,000 other prisoners). Her conviction came after prosecutors changed the charges against her mid-trial in order to increase the maximum detention period and introduce a confession that she argued was coerced. Independent trial observers noted that the prosecution produced no credible evidence against her.

5. This example, and the examples in Guatemala, illustrate the need for the immediate and effective implementation of the Declaration on Human Rights Defenders, in particular, Article 12(2) which requires States to "take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the...Declaration."

Repression of human rights defenders through national law

6. National laws and regulations frequently infringe upon the right to freedom of association of human rights defenders by imposing onerous or arbitrary registration procedures or discriminatory restrictions on the right to obtain funding for human rights activities. Other forms of legal restriction include denial of freedom of movement and assembly, and crippling limitations on human rights publications.

7. The Egyptian Organization for Human Rights has been operating under difficult conditions for many years. Since its establishment in 1985 the organization has been unable to obtain official registration and has continued to operate "in formation". In May 1999 a new and restrictive NGO law was passed. The law provides a set of criminal penalties, including a maximum sentence of one year imprisonment, for offenses that might amount to no more than the exercise of freedom of association; it gives authorities the power to interfere in the internal governance of organizations; it prohibits funding from foreign institutions without the prior approval of the authorities; and it limits the scope of permitted activities of NGOs.

8. These types of restrictions are irreconcilable with the right to freedom of association embodied in the ICCPR, and in the Declaration on Human Rights Defenders which affirms that everyone has the right to promote and protect human rights, "individually

and in association with others." States have a duty to provide an enabling environment for the exercise of these rights.

Effective implementation of the Declaration on Human Rights Defenders

9. In order to achieve effective implementation of the Declaration on Human Rights Defenders, the Lawyers Committee recommends the following to the key actors in the implementation process:

(a) States. All Members of the United Nations have committed themselves to uphold their obligations under the Declaration and effectively guarantee the rights of all human rights defenders in their territory. States should take all measures necessary to ensure the full protection of human rights defenders. In particular, national legislation incompatible with the Declaration should be reviewed and, where necessary, new laws protecting and enabling the work of human rights defenders should be adopted. States should also take action against those who threaten the personal safety of human rights defenders. States should make the Declaration widely available to everyone, particularly those involved in human rights activities, and undertake its translation into all national languages;

(b) Human Rights Defenders. Individuals, groups and organizations should use the Declaration as a protective tool and press their Governments to fully guarantee all rights and freedoms of human rights defenders in law and in practice. Violations of the rights of the Declaration should be reported immediately to national and international human rights monitoring bodies;

(c) Commission on Human Rights. The Commission should recommend that the Secretary-General appoint a Special Representative charged with the implementation of the Declaration on Human Rights Defenders. The Special Representative's mandate should include the ability to: (i) receive allegations of attacks on the rights of human rights defenders; (ii) respond effectively to such allegations – including by urgent action procedures and country visits upon invitation; (iii) examine measures, practices and laws that enhance or impede the work of human rights defenders; (iv) establish co-operation, conduct dialogue and recommend strategies to governments regarding the effective implementation of the Declaration; and (v) consult with and advise the appropriate UN agencies, organizations and programs regarding effective strategies for the protection of human rights defenders. The Commission should call on the Secretary-General to request all UN agencies, organizations and programs to co-operate and consult with the Special Representative, especially in the provision of technical and advisory services. All special rapporteurs and working groups should continue to report on abuses of human rights defenders falling within their mandates;

(d) High Commissioner for Human Rights. The High Commissioner for Human Rights should ensure a wide dissemination of the Declaration on Human Rights Defenders to all UN agencies, as well as among experts of the human

rights field offices, treaty bodies, special rapporteurs and working groups. The High Commissioner is also encouraged to provide support to a newly-appointed Special Representative and to special rapporteurs, working groups and independent experts seeking to incorporate the protection of human rights defenders in their mandates;

(e) Treaty Bodies. Treaty bodies should give more prominent attention to the valuable role of human rights defenders in the domestic implementation of treaty standards, and their need for better protection. Experts should more systematically inquire about the ability of human rights defenders to conduct their work in the States under review, preferably at the beginning of their dialogue with each State. Treaty bodies should inquire about the actions of State parties to bring national legislation that is relevant to the implementation of the Declaration into accord with their international treaty obligations.

10. For more information on the Declaration, see the Lawyers Committee's report "Protecting Human Rights Defenders: Analysis of the newly adopted Declaration on Human Rights Defenders" (http://www.lchr.org/media/chr/defdecanalysis.htm).